

GEKP CIVIL COVER SHEET

17 3263

JS 44 (Rev. 06/17)

The JS 44 civil cover sheet and the information furnished herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

JOHN F. BRASCH and MARIE E. BRASCH, H/W
1402 Highland Avenue
Fort Washington, PA 19034

(b) County of Residence of First Listed Plaintiff **MONTGOMERY**

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Jack M. Bernard, Esquire
1515 Market Street, Suite 1520
Philadelphia, PA 19102 Phone: 215-665-0666

DEFENDANTS

Wells Fargo Bank, N.A.: successor of World Savings Bank, N.A.; and
Wells Fargo Home Mortgage, a Division of Wells Fargo Bank, N.A.
420 Montgomery Street, San Francisco, CA 94163

County of Residence of First Listed Defendant **SAN FRANCISCO**

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|-------------------------------------|--------------------------|---|--------------------------|-------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> | <input type="checkbox"/> | 1 Incorporated or Principal Place of Business in This State | <input type="checkbox"/> | <input type="checkbox"/> |
| Citizen of Another State | <input type="checkbox"/> | <input type="checkbox"/> | 2 Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> | <input type="checkbox"/> | 3 Foreign Nation | <input type="checkbox"/> | <input type="checkbox"/> |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395H) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input checked="" type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

VI. CAUSE OF ACTION

Brief description of cause:
Predatory Lending

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMANDS

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

07/18/2017

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

JUL 21 2017

UNITED STATES DISTRICT COURT

17-CV-3263

GEKP
 FOR THE EASTERN DISTRICT OF PENNSYLVANIA DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar

Address of Plaintiff: 1402 Highland Avenue, Fort Washington, PA 19034

17

3263

Address of Defendant: 420 Montgomery Street, San Francisco, CA 94163

Place of Accident, Incident or Transaction: 1402 Highland Avenue, Fort Washington, PA 19034

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐No ☒

RELATED CASE, IF ANY:

Case Number: Judge Date Terminated:

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify) _____

B. Diversity Jurisdiction Cases:

1. ☒ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify) _____
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

1. ☒ Jack M. Bernard

counsel of record do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: 07/14/2017

Attorney-at-Law

26643

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 07/14/2017

Attorney-at-Law

26643

Attorney I.D.#

JUL 21 2017



IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

JOHN F. BRASCH and
MARIE E. BRASCH, H/W

v.

WELLS FARGO BANK, N.A.: successor of WORLD
SAVINGS BANK, N.A.; and WELLS FARGO HOME
MORTGAGE, a Division of Wells Fargo Bank, N.A.

CIVIL ACTION

17 3263
NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

July 18, 2017
Date

JACK M. BERNARD
Attorney-at-law

Jack M. Bernard
Attorney for Plaintiff
jackbernard@verizon.net

215-665-0666

267-514-8609

Telephone

FAX Number

E-Mail Address

(Civ. 660) 10/02

JUL 21 2017

\$ 400

GEKP

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

**JOHN F. BRASCH and
MARIE E. BRASCH, H/W**
1402 Highland Avenue
Fort Washington, PA 19034
Plaintiffs

vs.

**WELLS FARGO BANK, N.A.: successor of
WORLD SAVINGS BANK, N.A.; and
WELLS FARGO HOME MORTGAGE,
a Division of Wells Fargo Bank, N.A.**
420 Montgomery Street
San Francisco, CA 94163
Defendants

NO.

17 3263

COMPLAINT

I.

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction pursuant to Title 28 United States Code, Section 1332. Plaintiffs are citizens of the Commonwealth of Pennsylvania. Defendant, Wells Fargo Bank, N.A., successor of World Savings Bank, N.A. is a national banking corporation organized under the laws of the State of California, having its principal place of business in the State of California. Defendant, Wells Fargo Home Mortgage is a division of Wells Fargo Bank, N.A. The amount in controversy exceeds the sum of Seventy Five Thousand Dollars, exclusive of interest and costs. A substantial part of the events giving rise to this claim occurred in this district. The property that is the subject of this action is situated in this district.

II.
STATEMENT OF RELEVANT FACTS

2. On December 6, 2005, World Savings Bank, N.A. issued and approved a home equity secured line of credit for Plaintiffs up to \$250,000.00. On September 6, 2006, World Savings Bank issued and approved a 30-year mortgage for \$252,697.50. Both the line of credit and the mortgage loan were secured by Plaintiff's residence in Fort Washington, Pennsylvania. World Savings Bank valued the property at \$380,000, an amount greatly in excess of its fair market value.

3. As a result of the foregoing transactions, Plaintiffs began paying interest upon approximately Five Hundred Thousand Dollars at prevailing rates that escalated from the origination dates.

4. By way of illustration, only, total interest upon a 30-year loan of \$500,000 at 4.25% interest would be \$385,491.80.

5. At all times material to the allegations set forth in this Complaint, World Savings Bank marketed mortgage lending for residential homeowners. In this instance, World Savings Bank approved a 30-year mortgage loan for \$252,697.50, part of which paid down the amount owed upon the line of credit, leaving the remainder available for Plaintiffs to borrow.

6. Plaintiffs borrowed against the line of credit. As a result, Plaintiffs paid interest twice, once upon the mortgage and then upon the line of credit.

7. Sometime thereafter, the assets and liabilities of World Savings Bank were transferred to Defendant. In 2014, Defendant advertised on the internet for HARP refinancing. Plaintiff, John F. Brasch, answered the advertisement. He was rapidly approved for a refinance of the World Savings Bank mortgage, now assigned to Wells Fargo Home Mortgage, based

upon the 2006 appraised value of \$380,000 for their residence, and a current property valuation report that relied upon the 2006 appraisal.

8. Defendant falsely and fraudulently misrepresented the market value of the property in order to induce Plaintiffs to borrow amounts greater than the collateral.

III. PREDATORY LENDING

9. Plaintiffs repeat, reallege and incorporate by reference the averments of the preceding paragraphs of this Complaint.

10. Defendant and its predecessor engaged in the practice of “equity stripping” by lending unnecessarily large amounts of money making it difficult for Plaintiffs to refinance their mortgage or to sell their house in order to payoff the loans.

11. Defendant and its predecessor piled on debt secured by Plaintiffs residence. By way of example, Defendant’s predecessor encouraged Plaintiffs to obtain a home equity line of credit for \$250,000. Nine months later, Defendant’s predecessor approved a home equity mortgage for \$252,697.50, in addition to and not in lieu of the previously approved home equity line of credit, thus creating a potential debt of approximately \$500,000 when the value of the security was half of that amount.

12. Plaintiffs have serviced the home equity line of credit loan, and the mortgage loan, by paying principal and interest on both loans for approximately seven years.

13. Misusing legislation enacted by Congress as a remedy for excess borrowing, Defendant advertised loans available under the Home Affordable Refinance Program (“HARP”), which it then utilized to increase debt owed by Plaintiffs, further stripping away any remaining equity in their property.

14. The foregoing practices are in violation of the Pennsylvania Unfair Trade Practices and Consumer Protection Law (“UTCPL”), 73 P.S. Secs. 201-1 et seq.

WHEREFORE, Plaintiffs demand damages of and from the Defendant for an amount in excess of the sum of One Hundred Fifty Thousand (\$150,000.00) Dollars.

IV.
FRAUD

15. Plaintiffs repeat, reallege and incorporate by reference the averments set forth in preceding paragraphs of this Complaint.

16. At all times material to the claims set forth herein, Defendant led Plaintiffs to believe that the value of their residential real estate was increasing, and that Plaintiffs would be eligible to borrow additional amounts.

17. To the contrary, at all times material to this claim for relief, the actual fair market value of their property was approximately \$227,000.

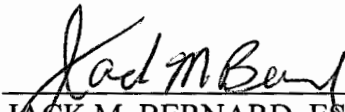
18. Defendant knew that its original appraisal of \$380,000 and a subsequent property valuation report of \$300,000, relying upon the original appraisal, was false and fraudulent.

19. Plaintiffs relied upon Defendant’s appraisal and property valuation report.

20. As a direct and proximate result thereof, Plaintiffs have incurred damages for excessive interest upon the home equity line of credit and the home mortgage loan.

21. The foregoing practices are in violation of the Pennsylvania Unfair Trade Practices and Consumer Protection Law (“UTCPL”), 73 P.S. Secs. 201-1 et seq.

WHEREFORE, Plaintiffs demand damages of and from the Defendant for an amount in excess of the sum of One Hundred Fifty Thousand (\$150,000.00) Dollars.

By: 
JACK M. BERNARD, ESQUIRE
Attorney for Plaintiffs
Attorney I.D. No. 26643
1515 Market Street, Suite 1520
Philadelphia, PA 19102
(215) 665-0666
(267) 514-8609 Fax